

O. Succession/45

1945.

File No.

Legal Deptt

A **BRANCH**



Subject:— *Opinions under the Indian
Succession Act, 1925.*

(8) 5/8

File No. *O/succession/45.*

Gen. 194 e.

206/A

C O N T E N T S

Legal Department File N . O. Succession /1945

Sr. No.	R. I. / O. No.	Subject	Pages.
		Opinions under the Indian Succession Act, 1925	
1.	<u>1372</u> 16-2-45	Sec. 372 Question whether succession certificate can be applied for in respect of a ~~as~~ instant compassionate allowance	1-2
2.	<u>4028</u> 25-5-45	Question whether the death certificate and the Declaration should be accepted for paying the rent to ~~..~~ V.R. Nayak as the Karta of the Joint family	3-4
3.	<u>7756</u> 19-10-45	Question whether ~~..~~ Paranjpe can be paid the amount of commission without production of a succession certificate	5-6
4.	<u>8093</u> 30 10-45	Question regarding the legal position about the right to the property of Mr. R.H. Haslam who was in England and the ~~claim~~ claim for boarding and ~~xx~~ lodging charges of the Taj Mahal Hotel in B'bay	7-10

Mjr/11/7
5 Cs.

|
Office of the R.L.A.

A succession certificate is issued in respect of any debt or debts due to the deceased creditor or in respect of portions thereof (see section 372 of the Indian Succession Act). A compassionate allowance is a voluntary bounty and not a debt within the meaning of section 372 of the Indian Succession Act. Consequently no succession certificate can be applied for in respect of a compassionate allowance. Under G.R. (H.D.A.R.P.) No. 1025-III-B- dated the 20th July 1944, Government had directed that the compassionate allowance should in the case of members of the A.F.S. killed in explosion who have left behind no widow or children, be paid to their dependants (including only father, mother, brother or sister) after verification from the Collector that these persons are really dependant upon the deceased for their support and have no other means of livelihood. In the present case the Collector has reported at page 5 ante that Shantabai the mother of the deceased Dattaram is really such dependant. If so, there is no legal objection to paying the compassionate allowance to Shantabai. Since the aforesaid G.O. does not prescribe any heirship certificate, the heirship certificate issued by the J.P. in the present case is of not much consequence beyond this that the facts stated therein may be taken as true.

Id/-

P.R.M.

15/2/45

Remembrancer of Legal Affairs.

U.R. to H.D. (A.R.P.) No 1379 dated the 16th February 1945.

Mjr/11/7

4 CS.

Office of the R.L.A.

Sub-section (1) of section 212 of the Indian Succession Act, 1925 provides that no right to any part of the property of a person who has died intestate can be established in any court of justice unless letters of administration have first been granted by a court of competent jurisdiction. Sub-section (2) lays down that this section shall not apply in the case of intestacy of a Hindu, Mahomedan, Buddhist, Jain or Indian Christian.¹ Though "property" includes also debts and other assets of the deceased, section 214 contains a special provision for a probate letters of administration or a certificate for the recovery of debts through courts. But "debt" as defined in sub-section (2) of that section does not include rent (see also *Nagendra v. Sat-dal*, 26 Cal. 536). In the present case Mr. Ramrao Raghunath Naik, a Hindu died intestate; and what Government has to pay is rent. Consequently no letters of administration can be insisted upon by Government before payment of the arrears of rent can be made. There is therefore no objection to Government paying the rent to the eldest son of the deceased Ramrao Raghunath Naik relying on the death certificate produced and the declaration made by him and his younger brother.

Id/- I.H.M.

25/5/45

Remembrancer of Legal Affairs.

C.R. to F.L. (Supply) No. 4028, dated the 25th May 1945.

Mjr11/7

4 Cs.

8204 dated 22-9-1945

Submitted with reference to P. and S.D. office note dated 20-9-1945 (p. 5 ante).

2. It appears that one Mr. N.W. Paranjape of Bombay was an authorised agent for sale of National Savings Certificates. As such authorised agent he was entitled to commission at the rate of annas four per ten rupee face value of National Savings Certificates sold through him (Vide clause (F) in N II. of the instructions regarding Small Savings Scheme (slipped & below P. and S.D. G.R. No. W 154-XXVS, dated 29-1-1944). He died on the 20th June 1945. His widow Mrs. Usha Narayan Paranjape has represented (p. 1) that the amount of the commission due on the sales effected by her husband approximating to not more than Rs. 250, may be paid to her. The question for R.L.A.'s consideration is whether she can be paid the said amount of commission without production of a succession certificate.

Reply may be: If Mrs. Paranjape is the sole heir of the deceased there is no objection to paying the amount to her on her executing an indemnity bond.

Id/-R.T.K.

7/10/45

R.L.A.

Id/- P.N.M.
15/10/45

I.R. to P. & S. D. No. 7756, dated 19-10-1945

Mjr/11/7

4 Cs.

L.D.R.I. No. 8057 dated 18-9-45

submitted.

2. Please see the letter from the Commr. of Police Bombay, at p 1 ante. It appears that the property collectively valued at Rs. 999/- of one Mr. R.H. Haslam, retired A.R.P. Controller who died intestate has been received in the office of the Commr, of police. There is a claim for Rs. 1234/-15/- from the Taj Mahal Hotel, Bombay, on account of boarding and lodging charges of Mr. Haslam. The L.L.A. is requested to advise on the legal position about the right to the property of Mrs. R.H. Haslam, who is at present in England, and the claim for boarding and lodging charges of the Taj Mahal Hotel, Bombay. The Commr. of Police can, it seems, refer any matter direct to the R.L.A. for opinion under Rule 20(1) of the L.O. Rs.

Mjr/11/7

E Cs.

Letter .

No. 8093
Office of the
Remembrancer of Legal Affairs,
Bombay Castle 30th October 1945.

To

The Commissioner of Police, Bombay

Subject:- Estate of late Mr. R.R. Haslam
(Deceased).

With reference to your letter No. 14673 dated the ²⁰ 17th September, 1945 on the subject noted above, I have the honour to state that it is presumed that you have taken charge of the property of late Mr. Haslam under section 47 of the Bombay City Police Act, 1902. If so, it is not understood why you do not chose to follow the procedure laid down in section 48(1) of that Act.

Sd/- R.T.K

c.c.

For Remembrancer of Legal Affairs.

Mjr/11/7

4 Cs.